

CHAPTER 423A

HOTEL AND MOTEL TAX

Referred to in §303.52, 331.402, 421.26, 421.28, 421.71, 423C.3

Personal liability of officers and partners, see §421.26
Former ch 423A repealed;
continuation of hotel and motel taxes imposed under former ch 423A;
2005 Acts, ch 140, §28, 29

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423A.1 Short title.

This chapter may be cited as the “Hotel and Motel Tax Act”.
2005 Acts, ch 140, §19, 28, 29

423A.2 Definitions.

1. For the purposes of [this chapter](#), unless the context otherwise requires:
 - a. “Affiliate” means the same as defined in [section 423.1](#).
 - b. “Department” means the department of revenue.
 - c. “Facilitate” or “facilitation” includes brokering, coordinating, or in any way arranging for the rental of lodging by users.
 - d. “Facilitation fee” means any consideration, by whatever name called, that a lodging facilitator or lodging platform charges to a user for facilitating the user’s rental of lodging. “Facilitation fee” does not include any commission a lodging provider pays to a lodging facilitator or a lodging platform for facilitating the rental of lodging.
 - e. “Lodging” means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, cabin, apartment, residential property, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. Lodging does not include conference, meeting, or banquet rooms that are not used for or offered as part of sleeping accommodations.
 - f. “Lodging facilitator” means a person or any affiliate of a person, other than a lodging provider or a lodging platform, that facilitates the renting of lodging and collects or processes the sales price charged to the user.
 - g. “Lodging platform” means a person or any affiliate of a person, other than a lodging provider, that facilitates the renting of lodging by doing all of the following:
 - (1) The person or an affiliate of the person owns, operates, or controls a lodging marketplace that allows a lodging provider who is not an affiliate of the person to offer or list lodging for rent on the marketplace. For purposes of this subparagraph, it is immaterial whether or not the lodging provider has a tax permit under [this chapter](#) or in what manner the lodging is classified for property tax or zoning purposes.
 - (2) The person or an affiliate of the person collects or processes the sales price charged to the user.
 - h. “Lodging provider” means any of the following:
 - (1) A person or any affiliate of a person that owns, operates, or manages lodging and makes the lodging available for rent through the person or any affiliate, or through a lodging platform or a lodging facilitator.
 - (2) A person or any affiliate of a person who possesses or acquires a right to or interest in any lodging with an intent to rent the lodging to another person through the person or any affiliate, or through a lodging platform or a lodging facilitator.
 - i. “Person” means the same as the term is defined in [section 423.1](#).

j. “Renting”, “rental”, or “rent” means a transfer of use, possession, or control of lodging for a fixed or indeterminate term for consideration.

k. “Sales price” means all consideration charged for the renting and facilitation of renting of lodging before taxes, including but not limited to facilitation fees, cleaning fees, linen fees, towel fees, nonrefundable deposits, and any other direct or indirect charge made or consideration provided in connection with the renting and facilitation of renting of lodging.

l. “User” means a person to whom lodging is rented.

2. All other words and phrases used in [this chapter](#) and defined in [section 423.1](#) have the meaning given them by [section 423.1](#) for the purposes of [this chapter](#).

2005 Acts, ch 140, §20, 28, 29; 2009 Acts, ch 179, §137; 2011 Acts, ch 25, §143; 2018 Acts, ch 1161, §246, 255, 256

Referred to in [§15J.2](#)

Legislative intent regarding definition of lodging; 2018 Acts, ch 1161, §254

2018 amendment, except for amendment to the definition of lodging, effective January 1, 2019; 2018 Acts, ch 1161, §255, 256

Subsection 1 amended

423A.3 State-imposed hotel and motel tax.

A tax of five percent is imposed upon the sales price for the renting of any lodging if the lodging is located in this state. The tax shall be collected and remitted as provided in [section 423A.5A](#).

2005 Acts, ch 140, §21; 2006 Acts, ch 1010, §103; 2018 Acts, ch 1161, §247, 255

Referred to in [§15J.2](#), [15J.5](#), [423A.5A](#)

2018 amendment effective January 1, 2019; 2018 Acts, ch 1161, §255

Section amended

423A.4 Locally imposed hotel and motel tax.

1. A city, a county, or a land use district created under [chapter 303, subchapter IV](#), may impose, by ordinance of the city council or by resolution of the board of supervisors or by ordinance of the board of trustees, a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the sales price from the renting of lodging. The tax when imposed by a city shall apply only within the corporate boundaries of that city, when imposed by a county shall apply only outside incorporated areas within that county, and when imposed by a land use district shall apply only within the corporate boundaries of that district. A hotel and motel tax imposed by a city or county shall not be imposed within the corporate boundaries of a land use district during any period of time that the land use district is imposing a hotel and motel tax.

2. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the hotel and motel tax, the county auditor shall give written notice by sending a copy of the abstract of votes from the favorable election to the director of revenue.

3. A local hotel and motel tax shall be imposed on January 1 or July 1, following the notification of the director of revenue. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on June 30 or December 31. At least forty-five days prior to the tax being effective or prior to a revision in the tax rate or prior to the repeal of the tax, a city, county, or land use district shall provide notice by mail of such action to the director of revenue. The director shall have the authority to waive the notice requirement.

4. a. A city, county, or land use district shall impose or repeal a hotel and motel tax or increase or reduce the tax rate only after an election at which a majority of those voting on the question favors imposition, repeal, or change in rate. However, a hotel and motel tax of a city or county shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in [section 423A.7](#), unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose.

b. If the tax applies only within the corporate boundaries of a city, only the registered voters of the city shall be permitted to vote. The election shall be held at the time of the regular city election or at a special election called for that purpose. If the tax applies only in the unincorporated areas of a county or only within the corporate boundaries of a land use

district, only the registered voters of the unincorporated areas of the county or the registered voters of the land use district, as applicable, shall be permitted to vote. The election shall be held at the time of the general election or at a special election called for that purpose.

5. The locally imposed hotel and motel tax shall be collected and remitted as provided in [section 423A.5A](#).

2005 Acts, ch 140, §22; 2007 Acts, ch 186, §24; 2008 Acts, ch 1115, §105; 2017 Acts, ch 158, §2; 2018 Acts, ch 1161, §248, 255

Referred to in §423A.5A, 423A.7

Subsection 5 effective January 1, 2019; 2018 Acts, ch 1161, §255

NEW subsection 5

423A.5 Exemptions.

There are exempted from the provisions of [this chapter](#) and from the computation of any amount of tax imposed by [this chapter](#) all of the following:

1. The sales price from the renting of lodging which is rented by the same person for a period of more than thirty-one consecutive days.

2. The sales price from the renting of sleeping rooms in dormitories at all universities and colleges located in the state of Iowa.

3. The sales price of lodging furnished to the guests of a religious institution if the property is exempt under [section 427.1, subsection 8](#), and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

2005 Acts, ch 140, §23; 2008 Acts, ch 1184, §58, 59; 2009 Acts, ch 179, §138, 139; 2018 Acts, ch 1161, §249, 255

2018 amendment effective January 1, 2019; 2018 Acts, ch 1161, §255

Section amended

423A.5A Collection and remittance of hotel and motel tax.

1. For purposes of [this section](#):

a. “Discount room charge” means the amount a lodging provider charges a lodging facilitator for lodging, excluding any applicable tax.

b. “Travel package” means lodging bundled with one or more separate components such as air transportation, car rental, or similar items and charged for a single retail price.

2. [This section](#) shall govern the collection and remittance of all taxes imposed under [this chapter](#).

3. Unless otherwise provided in [this section](#), the state-imposed tax under [section 423A.3](#) and any locally imposed tax under [section 423A.4](#) shall be collected by the lodging provider from the user of that lodging and shall be remitted to the department. The lodging provider shall add the state-imposed tax to the sales price of the lodging and the tax, when collected, shall be stated as a distinct item, separate and apart from the sales price of the lodging and from the locally imposed tax, if any. The lodging provider shall add the locally imposed tax, if any, to the sales price of the lodging and the tax, when collected, shall be stated as a distinct item, separate and apart from the sales price of the lodging and from the state-imposed tax.

4. If a transaction for the rental of lodging involves a lodging facilitator, all of the following shall occur in the order prescribed:

a. The lodging facilitator shall collect the taxes imposed under [this chapter](#) on any sales price that the user pays to the lodging facilitator in the same manner as a lodging provider under [subsection 3](#).

b. (1) Unless otherwise required by rule or order of the department, the lodging facilitator shall remit to the lodging provider that portion of the taxes collected on the sales price that represents the discount room charge.

(2) No assessment shall be made against a lodging facilitator for tax due on a discount room charge if the lodging facilitator collected the tax and remitted it to a lodging provider that has a valid tax permit required under [this chapter](#). This subparagraph shall not apply if the lodging facilitator and lodging provider are affiliates, or if the department requires the lodging facilitator to remit taxes collected on that portion of the sales price that represents the discount room charge directly to the department.

c. The lodging facilitator shall remit any remaining tax it collected to the department.

d. (1) The lodging provider shall collect and remit to the department any taxes the lodging facilitator remitted to the lodging provider, and shall collect and remit to the department any taxes due on any amount of sales price the user paid to the lodging provider.

(2) No assessment shall be made against a lodging provider for any tax due on a discount room charge that was not remitted to the lodging provider by a lodging facilitator. This subparagraph shall not apply if the lodging provider and lodging facilitator are affiliates.

e. Notwithstanding any other provision of [this section](#) to the contrary, if a lodging facilitator and its affiliates facilitate total rentals under [this chapter](#) and [chapter 423C](#) that are equal to or less than an aggregate amount of sales price and rental price of ten thousand dollars for an immediately preceding calendar year or a current calendar year, or in ten or fewer separate transactions for an immediately preceding calendar year or a current calendar year, the lodging facilitator shall not be required to collect tax on the amount of sales price that represents the lodging facilitator's facilitation fee.

5. If a transaction for the rental of lodging involves a lodging platform, the lodging platform shall collect and remit the taxes imposed under [this chapter](#) in the same manner as a lodging provider under [subsection 3](#).

6. If a transaction for the rental of lodging is part of a travel package, the portion of the total price that represents the sales price for the rental of lodging may be determined by the person required under [this section](#) to collect the taxes from the person's books and records that are kept in the regular course of business including but not limited to books and records kept for non-tax purposes.

2018 Acts, ch 1161, §250, 255

Referred to in [§423A.3](#), [423A.4](#)

Section effective January 1, 2019; 2018 Acts, ch 1161, §255

NEW section

423A.6 Administration by director.

1. The director of revenue shall administer the state and local hotel and motel tax as nearly as possible in conjunction with the administration of the state sales tax law, except that portion of the law which implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting state and local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city, county, or land use district terminates its local hotel and motel tax and all moneys received from the state hotel and motel tax shall be deposited in or withdrawn from the general fund of the state.

2. If a reinvestment district is established under [chapter 15J](#), beginning the first day of the calendar quarter beginning on the reinvestment district's commencement date, the director of revenue shall, subject to remittance limitations established by the economic development authority board pursuant to [section 15J.4, subsection 3](#), transfer from the general fund of the state to a district account created in the state reinvestment district fund for each reinvestment district established under [chapter 15J](#), the amount of the new state hotel and motel tax revenue, determined in [section 15J.5, subsection 2](#), paragraph "b", in the district. Such transfers shall cease pursuant to [section 15J.8](#).

3. The director, in consultation with local officials, shall collect and account for a local hotel and motel tax and shall credit all revenues to the local transient guest tax fund created in [section 423A.7](#). Local authorities shall not require any tax permit not required by the director of revenue.

4. [Section 422.25, subsection 4](#), [sections 422.30, 422.67, and 422.68](#), [section 422.69, subsection 1](#), [sections 422.70, 422.71, 422.72, 422.74, and 422.75](#), [section 423.14, subsection 1](#), and [sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 through 423.42, and 423.47](#), consistent with the provisions of [this chapter](#), apply with respect to the taxes authorized under [this chapter](#), in the same manner and with the same effect as if the state and local hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding [this subsection](#), the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in [section 423.31](#). The director may require all persons who are engaged in the business of deriving any sales price subject to tax under [this chapter](#) to register with the department. All taxes collected under [this chapter](#)

by a retailer, lodging provider, lodging facilitator, lodging platform, or any other person are deemed to be held in trust for the state of Iowa and the local jurisdictions imposing the taxes.

2005 Acts, ch 140, §24; 2007 Acts, ch 126, §70; 2013 Acts, ch 119, §10; 2014 Acts, ch 1092, §91; 2014 Acts, ch 1093, §23; 2017 Acts, ch 158, §3; 2018 Acts, ch 1161, §251, 255

Referred to in §15J.4, 15J.5, 15J.6, 423A.7

2018 amendment to subsection 4 effective January 1, 2019; 2018 Acts, ch 1161, §255

Subsection 4 amended

423A.7 Local transient guest tax fund.

1. A local transient guest tax fund is created in the department which shall consist of all moneys credited to such fund under [section 423A.6](#).

2. All moneys in the local transient guest tax fund shall be remitted at least quarterly by the department, pursuant to rules of the director of revenue, to each city in the amount collected from businesses in that city, to each county in the amount collected from businesses in the unincorporated areas of the county, and to each land use district in the amount collected from businesses in that land use district.

3. Moneys received by the city from this fund shall be credited to the general fund of the city, subject to the provisions of [subsection 4](#).

4. The revenue derived by a city or county from any local hotel and motel tax authorized by [section 423A.4](#) shall be used by a city or county as follows:

a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

b. The remaining revenues may be spent by the city or county which levies the tax for any city or county operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.

c. Any city or county which levies and collects the local hotel and motel tax authorized by [section 423A.4](#) may pledge irrevocably an amount of the revenues derived therefrom for each of the years the bonds remain outstanding to the payment of bonds which the city or county may issue for one or more of the purposes set forth in paragraph "a". Any revenue pledged to the payment of such bonds may be credited to the spending requirement of paragraph "a".

d. (1) The provisions of [chapter 384, subchapter III](#), relating to the issuance of corporate purpose bonds, apply to the issuance by a city of bonds payable as provided in [this section](#) and the provisions of [chapter 331, subchapter IV, part 3](#), relating to the issuance of county purpose bonds, apply to the issuance by a county of bonds payable as provided in [this section](#). The provisions of [chapter 76](#) apply to the bonds payable as provided in [this section](#) except that the mandatory levy to be assessed pursuant to [section 76.2](#) shall be at a rate to generate an amount which together with the receipts from the pledged portion of the local hotel and motel tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant to [section 76.2](#) and paid out in the first instance for bond principal and interest shall be repaid to the city or county which levied the tax from the first available local hotel and motel tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes.

(2) The amount of bonds which may be issued under [section 76.3](#) shall be the amount which could be retired from the actual collections of the local hotel and motel tax for the last four calendar quarters, as certified by the director of revenue. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the local hotel and motel tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be

adjusted to project the collections for the full year for the purpose of determining the amount of the bonds which may be issued.

e. A city or county, jointly with one or more other cities or counties as provided in [chapter 28E](#), may pledge irrevocably any amount derived from the revenues of the local hotel and motel tax to the support or payment of bonds issued for a project within the purposes set forth in paragraph “a” and located within one or more of the participatory cities or counties or may apply the proceeds of its bonds to the support of any such project. Revenue so pledged or applied shall be credited to the spending requirement of paragraph “a”.

f. (1) A city or county acting on behalf of an unincorporated area may, in lieu of calling an election, institute proceedings for the issuance of bonds under [this section](#) by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

(2) If at any time before the date fixed for taking action for the issuance of the bonds a petition signed by eligible electors residing in the city or the unincorporated area equal in number to at least three percent of the registered voters of the city or unincorporated area is filed, asking that the question of issuing the bonds be submitted to the registered voters of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds.

(3) The proposition of issuing bonds under [this section](#) is not approved unless the vote in favor of the proposition is equal to a majority of the vote cast.

(4) If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the council or board of supervisors acting on behalf of an unincorporated area may proceed with the authorization and issuance of the bonds.

(5) Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under [this section](#) without otherwise complying with this paragraph.

5. The revenue derived by a land use district from any local hotel and motel tax authorized by [section 423A.4](#) shall be expended exclusively for the purposes set forth in [section 303.52, subsection 4, paragraph “b”](#).

[2005 Acts, ch 140, §25; 2011 Acts, ch 25, §143; 2017 Acts, ch 158, §4 – 6; 2018 Acts, ch 1041, §127](#)

Referred to in [§331.427, 423A.4, 423A.6](#)
Code editor directive applied